



Yuma County, Arizona
DEPARTMENT OF DEVELOPMENT SERVICES
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**YUMA COUNTY BOARD OF ADJUSTMENT
MEETING MINUTES**

DATE: Tuesday, October 20, 2015

PLACE: Aldrich Auditorium, 2351 West 26th St., Yuma, AZ

1. Call to Order the Regular Session of the Yuma County Board of Adjustment and roll call to verify quorum.

Chairman Saltzer convened the Board of Adjustment meeting to order at 1:07 p.m. Members present were Chairman Charles Saltzer, Neil Tucker and Tim Eisenmann. Vice-Chairman Joe Harper and Ron Rice were absent.

Others Present: Planning Director Maggie Castro, Associate Planner Marilu Garcia, Deputy County Attorney Ed Feheley and Office Specialist II Kristen Davalos.

2. Pledge of Allegiance.

Chairman Saltzer led the Pledge of Allegiance.

3. Approval of Board of Adjustment regular meeting minutes of August 18, 2015.

Tim Eisenmann made a motion recommending approval of the Board of Adjustment regular meeting minutes of August 18, 2015. Neil Tucker seconded the motion. The motion carried 3-0.

4. Variance Case No. 15-12: Garrett Bair, agent for George and Florence Mezei, requests a variance from the Yuma County Zoning Ordinance, Section 1115.05 (B)—Wireless Communication Facilities Height and Setback Requirements, to allow a reduction of the required side yard setback to six feet on a parcel approximately 9,300 net square feet in size zoned General Commercial (C-2), Assessor's Parcel Number 694-20-005, located at 2868 South Avenue B, Yuma, Arizona.

Marilu Garcia, Associate Planner, presented the staff report recommending denial of Variance Case No. 15-12 based on the following findings:

1. Staff finds approval of this variance may have an adverse effect on public, health, safety, and welfare.

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2. Staff finds there is no hardship arising from conditions or circumstances unique to the development of this property.
3. Staff finds the condition is self-imposed.

If the Board approves this Variance, staff recommends the following conditions:

1. This variance is valid for the time limits outlined in the Section 403.7 of the Zoning Ordinance.
2. All Federal Administration and Federal Communications commission regulations must be complied with including marking, lighting, and notification requirements.
3. The approval of this variance is based on the site plan submitted by the applicant. Any change from the site plan will require approval of a new variance by the Board of Adjustment.

Marilu Garcia stated that staff did not receive any comments or objection to this variance.

Mr. Eisenmann asked staff if the property owner also owns the property to the south. Marilu Garcia responded yes.

Mr. Tucker asked staff what is the likelihood of the 75 foot tower falling and striking another building. Marilu Garcia stated that the distance from another building and the tower is approximately 10 feet. She stated that it has been indicated that towers would fall within a radius of 25 feet, but it is unknown.

Chairman Saltzer opened the public hearing.

Garrett Bair, agent for George and Florence Mezei, 2200 E. Williamsfield Rd. Gilbert, AZ, presented Power Point presentation regarding the purpose of the request. Mr. Bair stated that the main purpose of this request is to provide wireless services, as required by Verizon Wireless' FCC license, to fill a significant "Gap in Service". Mr. Bair discussed the peculiar condition (tree) on the south portion of the site that prevents Verizon from constructing a 60 foot monopole or moving the site further south. Mr. Bair stated that the tree is peculiar because it would block Verizon's signal. He stated that the tower is not able to be placed in the south portion of the site due to the tree blocking the coverage area for cell lines via Verizon Wireless. He discussed the hardship of not being able to meet Verizon's FCC license requirements and the hardship of not being able to provide wireless service to the surrounding areas. Mr. Bair stated that combining two separate parcels is out of the control of Verizon. Mr. Bair stated that he has spent the past two years identifying a feasible property within the Verizon coverage objective. Mr. Bair emphasized that the granting of the variance would not have an adverse effect on public health, safety or welfare.

Mr. Eisenmann asked if the tree will continue to grow. Mr. Bair replied that that is correct and that is another concern. He stated that it will continue to grow and that is why they moved the tower and shifted it north to be higher from than the tree. Mr. Eisenmann commented that if the tree does grow 10 feet higher than it will cover the tower. Mr. Bair stated that he contacted the owner about assisting with

trimming the tree. He stated that he doesn't think that the tree will grow as high as 75 feet for some time. Mr. Eisenmann said that the development of the site plan looks like it would be blocking access to the back of the building and that there would not be any way for emergency vehicles to get to the back of the building. Mr. Bair pointed out that it would be a straight shot in and stated that there is a gate to drive through as well. Mr. Eisenmann explained that the property line is only 6 feet away from the proposed placement of the tower. Mr. Bair explained that Verizon complies with the building codes; if that becomes an issue they would be sure to get the permits. He stated that he is not aware if a truck can get behind the building or not, but that the property to the south is owned by the same individual. Mr. Eisenmann asked the agent what if the property is sold to someone else and they do not allow anyone to go back there. Mr. Bair explained that he thinks it would be part of the sale and that there is typically an easement for access. He further explained that there is a gate there and doesn't see any issues with the property owner providing access in the future. Mr. Eisenmann asked Mr. Bair why the property owner doesn't just combine the two properties into one so there wouldn't be any problems. Mr. Bair explained that he did approach the owner on that and the owner did not want to combine them. He stated that is not in Verizon's control whether the property owner combines the properties or not.

Neil Tucker asked staff what the public safety and wellness concern was that the agent disagrees with. Marilu Garcia explained that the concern was the proximity to the north building and that there is residential usage located to the left of the property.

Chairman Saltzer asked Mr. Bair if it was correct that the tree currently extends over the property line. Mr. Bair replied that it did extend over the property line but that the property owner has told him that it has been trimmed however, he has not seen it. Mr. Bair stated that the height is still on the tree. Chairman Saltzer stated that the tree could be cut back substantially and the tree probably won't grow to be too much taller. Chairman Saltzer said that the information can be provided to the property owner and maybe Verizon can provide some compensation for trimming the tree. Chairman Saltzer asked if they thought about putting in a higher tower at 75 feet. Mr. Bair replied that the intent was to do a 60 foot pole. Mr. Bair spoke to Verizon about the height of the tower and they wanted to keep the height at 60 feet because making the tower higher will not work for the Engineer. Chairman Saltzer also asked if there would be a generator on the site. Mr. Bair answered that there would be one since Verizon has one at every site.

Neil Tucker asked about the 3 boxes on the presentation and if any of the boxes were the generator. Mr. Bair said that the generator is to the east of the radio cabinets.

Chairman Saltzer asked if the placement of the tower will complicate the required parking spaces. Mr. Bair replied that it will not complicate the parking spaces. If the tower were to fall it would fall on the owner's property or structure and that the tower falling over is not a thought and stated that Verizon complies with all the building code regulations. Chairman Saltzer explained that the area is earthquake

prone. Chairman Saltzer stated that if there were an earthquake there would be damage to the structure.

Tim Eisenmann made a motion to deny Variance Case No. 15-12. Neil Tucker seconded the motion. The motion carried 2-1, Chairman Salter voting Nay.

- 5. Variance Case No. 15-13:** Juan Mireles, agent for Judy and Gary Gormanson, requests a variance from the Yuma County Zoning Ordinance, Section 609.05 - Minimum Lot Width and Principal Buildings Setback Requirements, to allow a reduction of the required rear yard setback to five feet on a parcel 6,668 square feet in size zoned Recreational Vehicle Subdivision (RVS), Assessor's Parcel Number 700-02-055, located at 10296 South Monsoon Avenue, Yuma, Arizona.

Marilu Garcia, Associate Planner, gave the staff report recommending denial of Variance Case No. 15-13 based on:

1. Staff finds there are no peculiar conditions applicable to the property to cause the granting of variance.
2. Staff finds there is no hardship arising from conditions or circumstances unique to the development of this property.
3. Staff finds approval of this variance may have an adverse effect on public health, safety, and welfare.

Staff received four comments with no objections to this Variance.

1. Call, October 15, 2015: Dwain Lish, 10276 South Monsoon Avenue. He stated that the current property owner should not be penalized for this mistake and this request should be granted.
2. E-mail, October 19, 2015: Luke and Lindsey Carter, 10310 South Monsoon Avenue. They wanted to voice their support for their neighbors, Gary and Judy Gormanson in order for them to receive the variance they need. The Gormanson's purchased their property not knowing that the structures were built without proper permits and against variance codes. The Gormanson's moved in, and have been doing great things to improve their property, which helps improve the neighborhood overall. They fully support the Gormansons, and the variance of 5 feet versus the required 10 feet.
3. Letter, October 19, 2015: Hobert & Michele Rinehart, 10287 South Tornado Avenue. We ask that the Board grant this variance. We feel that the building in question is an asset to the neighborhood.
4. Call, October 20, 2015: Patricia Lachance, 10296 South Tornado Avenue. No objection.

If the Board of adjustment approves this Variance, staff recommends the following conditions:

1. This variance is valid for the time limits outlined in the Section 403.7 of the Zoning Ordinance.
2. Permits are required for the existing shed, currently used as an RV Support Structure. All construction shall be verified to be in compliance with the 2012 International Residential Building Code.

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Neil Tucker asked what the issue was concerning public health and welfare. Marilu Garcia stated that there is a manufactured home at the rear of the property.

Tim Eisenmann asked staff what was the purpose of the RV support structure is. Ms. Garcia explained that this building gives support to the RV and that they usually have a bathroom facility or plumbing fixtures which is what differentiates it from a storage building.

Neil Tucker stated that he read through the documents and found that the initial permitting structure was used for storage only and that the plumbing was added sometime later.

Chairman Saltzer opened the public hearing.

Garry Gormanson, 10296 South Monsoon Avenue, explained that the RV support building does have plumbing and that the previous owners told him that the structure did have a permit, but was later found out that it did not have a permit. Mr. Gormanson stated that he and his wife want to build a home on the lot and to become residents. He continued that he would like to relocate the storage building (8' X 10' in measurements) to the north. Mr. Gormanson further explained that the existing metal frame structure on the property is a car cover that can be moved as well. Mr. Gormanson wants to be able to obtain proper permits and is willing to do what it takes to bring property to code.

Neil Tucker asked if he is willing to move RV Support Structure. Mr. Gormanson replied that he would like to keep the support structure where it is located and that the shed to the north of the building could be moved. He stated that it would be too difficult to move the support structure.

Tim Eisenmann asked how he would be able to move the shed. Mr. Gormanson answered that it would take four people to move over the shed and that it would not take much to move. He further explained that he can move the shed 5 feet from the building. He spoke to Inspector Ty Martinez that went out to look at the property and they discussed moving the shed.

Chairman Saltzer asked if the RV support building is hooked into the existing sewage system. Mr. Gormanson answered yes it is hooked into the existing sewage system.

Tim Eisenmann asked if the request is for a five foot setback for the RV facility only and not the shed. The applicant asked if it could be permitted to move the two structures to a different location or if he could leave the whole thing it would be great. The applicant stated that he wants to bring the property into compliance and explained he wanted to obtain a certificate of occupancy so he can move on to the property.

Neil Tucker asked if the Board is being asked to provide a five foot setback for that building only. Chairman Saltzer stated that board is also being asked if the other buildings can remain the same.

Maggie Castro replied that the way the variance was worded was to allow a 5 foot rear yard setback. Maggie further explained that it was not specific to the RV structure and that it is up to the Board if they would want to approve the variance just for the RV support structure or provide a five foot setback for all structures.

Chairman Saltzer asked if a five foot setback for all structures would make them all in compliance.

Maggie Castro replied that the shed located north of the RV support structure would not need to be relocated if there was a 5 foot setback for all structures and that there is another shed located south of the RV support structure that will also not need to be relocated. She explained that both of the sheds are located less than 3 feet from the RV support structure and because of that they are considered to be attached structures and must meet principal building setbacks. She continued that if the variance is granted for five foot setback, all structures can stay as is.

Mr. Gormanson stated that the structure to the south of the building is a canvas top pole structure.

Tim Eisenmann stated that, going back to the site plan, it looks like the carport and the shed are violating the 5 foot setbacks as well. Maggie Castro replied that because the carport is open on all sides it can be 3 feet from the side and rear property lines. She explained that the shed is less than 3 feet from the RV support structure so it must meet principal building setbacks. Maggie stated that it is an enclosed structure.

Chairman Saltzer asked if it only needs a five foot for the left (rear) side and if that would cover the requirements. Maggie Castro answered that the shed located in northwest corner of lot, because it is less than 3 feet from the structure, needs to be 10 feet from the rear and 7 feet from the north. Maggie stated that if the variance is granted to allow a five foot rear yard setback than the shed would still need to meet a 7 foot side yard setback because it is considered attached based on the distance from the RV support structure. Chairman Saltzer stated that the shed is pretty easy to move around, but the one in question is the one with plumbing and electricity and cannot be moved around. Maggie Castro stated that another solution is to remove the plumbing from the RV support structure. Maggie stated that if the applicant removes the plumbing than they do not need the variance.

Chairman Saltzer opened the public hearing

Garry Gormanson, 10296 South Monsoon Avenue came up to speak to the Board. Chairman Saltzer asked Mr. Gormanson if he would consider taking out the plumbing. Mr. Gormanson replied that he would like to keep the plumbing intact.

Neil Tucker referred to the picture of the back of the structure and asked what is behind the structure. Mr. Gormanson stated that there are storage cabinets and a workbench in the back of the building.

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Tim Eisenmann made a motion recommending approval of the Variance Case No. 15-12 with conditions recommended by staff. Neil Tucker seconded the motion. The motion carried 3-0.

6. Adjourn.

The meeting adjourned at 2:16 p.m.

These minutes were approved and accepted on this 17th day of November, 2015.



Witness:
Joe Harper
Vice Chairman



Attest:
Maggie Castro
Planning Director